

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:08-cr-00016-MR**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) O R D E R
)
)
MATTHEW JAMES DURY,)
)
Defendant.)
)

THIS MATTER is before the Court on the Defendant's "Motion to Void Indictment . . ." [Doc. 151] and the Defendant's Motion for Imprisonment to be Voided..." [Doc. 152].

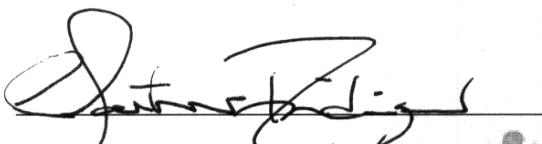
By the present motions, the Defendant seeks to challenge the validity of his guilty plea and his conviction. To the extent that the Defendant wishes to raise such claims, he must first seek authorization from the United States Court of Appeals for the Fourth Circuit to file a second or successive motion pursuant to 28 U.S.C. § 2255. See 28 U.S.C. § 2255(h). The Defendant has provided no evidence that he has secured such authorization here. Accordingly, this Court is without jurisdiction to consider the merits of the Defendant's motions, and they will be dismissed.

Pursuant to Rule 11(a) of the Rules Governing Section 2255 Cases, the Court declines to issue a certificate of appealability as the Defendant has not made a substantial showing of a denial of a constitutional right. 28 U.S.C. § 2253(c)(2); Miller–El v. Cockrell, 537 U.S. 322, 336-38 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 473, 484 (2000) (holding that when relief is denied on procedural grounds, a petitioner must establish both that the correctness of the dispositive procedural ruling is debatable, and that the petition states a debatably valid claim of the denial of a constitutional right).

IT IS, THEREFORE, ORDERED that the Defendant's "Motion to Void Indictment . . ." [Doc. 151] and the Defendant's "Motion for Imprisonment to be Voided..." [Doc. 152] are **DENIED AND DISMISSED**.

IT IS FURTHER ORDERED that pursuant to Rule 11(a) of the Rules Governing Section 2255 Cases, the Court declines to issue a certificate of appealability.

IT IS SO ORDERED. Signed: July 1, 2019



Martin Reidinger
United States District Judge

